Canada. National Health and Welfare,Dept. of. Research Div.
General series. Memorandum.
no.7

CHANGES AND DEVELOPMENTS IN CHILD WELFARE SERVICES IN CANADA 1949-1953

General Series
MEMORANDUM NO. 7

DEPARTMENT OF NATIONAL HEALTH AND WELFARE
RESEARCH DIVISION

Ottawa September, 1954

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Published by the Authority of the Hon. Paul Martin
Minister of National Health and Welfare

Research Division
Department of National Health and Welfare
Ottawa, September, 1954

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FOREWORD

This bulletin is a section of a larger report to the United Nations dealing with major changes in family, child and youth welfare in Canada from 1949 to 1953. It is being presented at this time to meet requests for information on child welfare.

This four-year review provides information which is not brought together in any other publication. It has the limitation, however, that it deals only with developments during a particular period and thus rules out a comprehensive presentation of the aspects of child welfare under consideration. It also places what may appear to be undue emphasis upon certain provinces where a number of legislative changes happened to take place during the period.

The bulletin does not deal with income maintenance programs for families and children, such as family allowances and mothers' allowances, nor does it include material on child health, juvenile corrections and recreational services.

The Division wishes to express its appreciation to the provinces for providing information on legislative and administrative developments within the public area of the field and to the Canadian Welfare Council for material on developments in the voluntary area.

The report of which this bulletin was a part was prepared within the Welfare Section of the Research Division under the general direction of Mrs. Flora Hurst. Much of the preliminary work was carried out by Prof. W.G. Dixon of the University of British Columbia School of Social Work who was on the Division's staff in the summer of 1953. The report was completed by Mr. D.H. Gardner and Mr. R.B. Splane.

Joseph W. Willard
Director, Research Division.

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DEVELOPMENTS IN CHILD WELFARE SERVICES IN CANADA 1949-1953

1. The Protection of Children

The legal protection of the child may be described as the aggregate of statutes and regulations whether federal, provincial or municipal which exist for the protection of all children from detrimental influences arising either in the home or in the community. It embraces laws relating to parental rights and responsibilities and the rights and responsibilities assumed by the state. It thus includes infants acts, guardianship laws, regulations against child labour, requirements relating to school attendance and provisions to deal with juvenile delinquency.

Legal protection extends also, and with particular force, to children whose parental relationship is of such a nature that they do not have the benefits of normal family life. This includes children who are orphans, who are deprived, through desertion, of one or both of their parents, who are illegitimate or whose parents are unable properly to care for them. Where any one of these circumstances or a combination of them results in a child being without adequate care and protection, the child may be brought before a court, along with his parents or the person who has been caring for him, to determine whether he is in need of protection or, to use the more general legal term, is "neglected". Where neglect is established public responsibility may be assumed for child's care and protection either on a temporary basis or for the whole period of his childhood and youth.

Around this basic legal framework, there have developed a variety of child welfare services. These are usually divided into two main categories to which are ascribed the terms 'child protection services' and 'child care services'. Unfortunately, the term 'child protection' has had, historically, and to some extent, still has, a broader connotation than the one generally employed in current Canadian child welfare usage. It is now normally used to refer to those services which are designed to prevent or correct child neglect, to assist parents to correct unsatisfactory situations and thereby enable them to raise their children satisfactorily in their own homes, and to assist the parents of children temporarily removed from their own homes to overcome their difficulties and to make their home and family life again suitable for the care and development of children. 'Child care services' are the services for children temporarily or permanently out of the care of their own parents and consist of providing foster home or institutional placement or, where it is possible in the case of children requiring permanent care, adoption placement.

Jurisdiction

The care and protection of children both through legal and other means are largely responsibilities of the provinces. The federal government, however, has a role of considerable importance because of its provision of family allowances, its welfare services for Indians and Eskimos and its sole jurisdication over criminal law. The latter exerts particular influence in the treatment of juvenile delinquency through the operation of the federal Juvenile Delinquents Act.

In administering their child protection and child care services, all provinces have some central authority, usually a Division of Child Welfare within the Department of Welfare, responsible for direction of the child protection program. But actual administration is often decentralized to local government, regional units of the provincial government, or to children's aid societies which have long provided programs in some provinces.

Children's aid societies represent a fusion of private and public responsibility. They are voluntary associations operating in the field of child welfare but chartered, supervised and financially assisted by provincial departments under appropriate legislation.

A children's aid society has authority to investigate cases of alleged neglect, to apprehend a child and to bring him before a judge upon whom rests the responsibility of deciding whether in fact the child is neglected. Thus the ultimate power to remove a child from the guardianship of the parents and commit him to the guardianship of a society rests with the courts. In areas where there are no children's aid societies and where guardianship is assumed by the public authority, the same process applies except in the province of Quebec. When a child is thus committed, he is termed a ward of the society, of a provincial department, or a designated Minister or departmental official as the case may be. Some provinces provide for temporary ward care. However, opportunity also exists for non-ward care in that, where circumstances dictate, parents may place their child with an agency without transfer of guardianship. Children's aid societies normally also engage in preventive work and provide foster placement, adoption and other child care services. They are most extensive in Ontario and the Maritime provinces with the exception of Newfoundland. Although some societies exist in the Western provinces, child welfare services there are to a much greater extent publicly provided.

In Quebec legal and administrative arrangements for child protection and care are somewhat different. Commitment

is normally made by the Minister of Social Welfare and of Youth on the recommendation of a magistrate. The care of neglected children is the responsibility of Youth Protection Schools which are subsidized and supervised by the provincial government.

2. Neglected and Dependent Children

During the period under review, new acts governing the protection of neglected and dependent children were passed in Nova Scotia and Quebec. Prince Edward Island also passed a new Children's Protection Act which consolidated previous legislation and added some new provisions. In addition five other provinces amended existing acts. The new legislation and amendments contained provisions regarding the nature of and jurisdiction over commitment orders, the maintenance of neglected children and provincial grants to children's aid societies.

Commitment Process

In 1949, Alberta made some changes relating to children temporarily committed to the Superintendent of Child Welfare.1/ Temporary commitment was limited to twelve months during which period the child may be brought before the court by the Superintendent for a further order. During temporary commitment the Superintendent possesses all the rights of the legal guardian of such child except in respect to adoption. Previously the Act did not specify for what period temporary commitment could be made. Neither did it specifically provide for new hearings during the period of temporary commitment. Cases under a *sine die* adjournment are now under the direction of the judge rather than the supervision of the Superintendent of Child Welfare.2/

The 1949 amendment modified also procedure with regard to a child found not to be neglected. Formerly, the judge had to order that such a child be returned to his parents, guardian or "other person caring for him". Such an order is no longer mandatory. The purpose of this amendment was to give the judge a discretion in directing the persons to whom the child shall be returned.3/

1/ S.A., 13 George VI, c 21, s. 7 (1949) 2/ Ibid., s. 7.
3/ Ibid., s. 6. Also explanatory note to Bill 65 of 1949, Alberta.

Prince Edward Island in 1950 lowered from eighteen to seventeen the age of children to whom the Children's Protection Act might apply.1/ The Act also set out the court orders which may be made by a judge on behalf of a neglected child. The child may be returned to his parents, under supervision, or delivered to the custody and control of the Director of Public Welfare, or of a children's agency, for placement in a foster home or institution for an indeterminate period. If placement is made, the case must be reviewed within twelve months, at which time the judge may order the return of the child to the parents. He may, alternatively, commit the child to the Director or to a children's agency either of whom have authority to place the child for adoption.2/ Previous provisions stipulated that the judge could order a neglected child to be delivered to a children's aid society which became its legal guardian. The parents could apply to a judge to terminate wardship.

A 1949 amendment to the Child Welfare Act of Manitoba provided that if the residence of a neglected child could not be determined immediately, the judge could commit him temporarily to the Director of Public Welfare or to a children's aid society until the issue was determined.3/ The amendment also stipulated that, in addition to the Director of Public Welfare, a child welfare agency could apply to the Surrogate Court and be awarded the guardianship of both the person and estate of a dependent orphan enrolled for a monthly allowance under provisions of the Act. Formerly only the Director could so apply.4/

In Ontario the Children's Protection Act was amended in 1949 in connection with illegitimate children who had been abandoned or improperly cared for. Formerly such children could be committed as neglected children under that Act but only with the consent of the provincial officer. This latter requirement was deleted.5/

Nova Scotia in 1949 provided opportunity for an appeal to the Supreme Court from an order or decision of a lower

1/ S.P.E.I., 14 George VI, c. 6, ss. 2 and 11 (1950).
2/ Ibid, s. 11.
3/ S.M., 13 George VI, c. 7, s. 1 (1949).
4/ Ibid., s. 4.
5/ S.O., 13 George VI, c. 11, s. 1 (1949) and 13 George VI, c. 95, s. 4 (1949).

court judge pertaining to the commitment of a child.[1] This provision was carried into the new Child Welfare Act passed in 1950. The time limit of one week for court examination of an apprehended child does not appear in the new Act. A judge may adjourn a case from time to time up to a period of a year and leave the child with the parent or guardian under the supervision of a children's aid society or the Director of Child Welfare.[2] Previous legislation provided for commitment to a children's aid society or the Director who could then permit the child to live with the parents or relatives. The change means that all cases of proven neglect do not have to be committed, the judge rather than the Society or Director makes the decision on the use of the child's own home, and the limit of one year guarantees the review of border line cases.

In 1951 Saskatchewan removed child neglect proceedings from the juvenile court and assigned such cases to judges of district courts or police magistrates who previously heard cases but only when they were acting in the capacity of juvenile court judges.[3]

In 1953 Saskatchewan made extensive revisions of its Child Welfare Act. An amendment provided that an officer of the Department may with the consent of the parents of any child, or with the consent of the person having custody of him, apprehend a child and bring him before the judge; if the latter decides it to be in the best interest of the child, he may make an order in the usual way.[4] The purpose of this change was to permit a child to be brought before a judge for reasons of emotional neglect.[5]

The amendment also provided that upon the petition of the Director or other officer, the judge might terminate a period of temporary committal before its expiry. The Director, the parents and, in most cases, the municipality of residence must consent to such termination. When temporary committal is so terminated the judge must forthwith order the child committed to the Minister of Social Welfare and Rehabilitation.[6] If a child has been placed in a home or institution by his parents, the Director of Child Welfare may have him apprehended if he thinks it in the child's best interest. Formerly the judge ordered the court appearance of the child upon the written

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1/ S.N.S., 13 George VI, c. 30, s. 7 (1949).
2/ S.N.S., 14 George VI, c. 2, s. 29 (1950).
3/ S.S., 15 George VI, c. 87, s. 3 (1951).
4/ S.S., 2 Elizabeth II, c. 104, s. 4 (1953).
5/ Correspondence from the Province of Saskatchewan.
6/ Ibid., ss. 7, 8 (1953).

request of the Director.[1] Finally, the amendment provided that the three weeks' time limit for court appearance after the apprehension of the child, and the one month time limit for further action after the expiration of temporary committal, may both be extended by the judge upon ex parte application. Formerly such extensions could be allowed by the judge upon application to him but the Act did not specify the nature of the application.[2]

The commitment process in Quebec underwent extensive change with the passage in 1950 of the Social Welfare Courts Act and the Youth Protection Schools Act. The purpose of the Social Welfare Courts Act, as implied in its title, was to create a separate judicial body to deal with certain social issues. In addition to juvenile delinquency, admissions to Youth Protection Schools, adoptions, and infringements of municipal laws by juveniles, the Court hears appeals relating to the hospitalization of indigents, and to the confinement and discharge of the mentally ill.[3] The judges have advisory and conciliatory functions. They advise on the rehabilitation of delinquents, and the protection of neglected and unhappy children, as well as acting as moderators in disputes between consorts or between parents and children.[4]

Social Welfare Courts may be established in a judicial district, or group of judicial districts, having a population of 50,000.[5] The status of the court is indicated by the fact that judges must have at least ten years legal practice before being eligible for appointment, and they must devote full time to their judicial functions.[6] In some instances a district magistrate may preside over the Court. Provision is made for a chief justice with supervisory powers.

The Youth Protection Schools Act was introduced in 1950 and revised extensively in the 1951 session.[7] What the Act does in substance is to make alternative arrangements to the former Industrial Schools Act for the commitment of neglected children.

Unlike the former legislation and unlike child protection legislation in the other provinces, the Act does not specify the situations comprising neglect. It provides generally that any child, apparently or actually less than eighteen years

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1/ Ibid., s. 16.
2/ Ibid., s. 5.
3/ S.Q., 14 George VI, c. 10, s. 266 f (1950).
4/ Ibid., s. 266 a.
5/ Ibid., s. 266 b.
6/ Ibid., s. 266 g.
7/ S.Q., 14 George VI, c. 11 (1950) and 15 George VI, c. 56 (1951).

old, may be brought before a magistrate when he "is particularly exposed to moral or physical dangers, by reason of its environment or other special circumstances and for such reasons needs to be protected".

A child in need of protection as above may be brought to the court by a "person in authority who may be the father, mother, tutor or subrogate-tutor of the child, the rector or a school commissioner" in the locality where the child lives. In 1951 the definition was extended to include any person designated ex-officio by the magistrate in a particular case or the officer of a child welfare organization officially recognized by the Minister of Social Welfare and of Youth. Under the former Industrial School Act, any ratepayer of a municipality could have a child brought to court. Under certain circumstances, the mayor of a municipality and, in the case of an incorrigible child, the parent, tutor or relative, could also have a child brought to court.

Jurisdiction over neglect cases is held by a judge of the Social Welfare Court, or if there is no such court in the district concerned, by a district magistrate. Previously if a juvenile court was not available, a child could be brought before a magistrate, two justices of the peace, a coroner, sheriff or prothonotary. Under the new legislation, a prothonotary or clerk of the Magistrate's Court may investigate a case if a magistrate cannot be reached. The prothonotary or clerk reports the results of the investigation to the Minister of Social Welfare and of Youth.

Notice of a hearing must be given to the parents, tutor or persons having custody of the child. As originally passed, the Act provided that, if upon investigation, the magistrate was convinced that the child should be admitted to a school, he should report to the Minister of Social Welfare and of Youth accordingly. The 1951 amendment extended the powers of the magistrate regarding disposition. In addition to recommending committal to the Minister, he is empowered to leave the child at liberty under supervision, to confide him to any person, social agency, society or institution, or to take any other decision in the best interest of the child (with the limitation on commital to a Youth Protection School noted below. If the child is entrusted to an organization or an institution which is not a recognized Youth Protection School but is recognized as a public charity institution under the Quebec Public Charities Act, the placement is considered to be made under that Act. The amendment also provides that no child less than six years old may be admitted to a school.

The magistrate does not have the power to commit the child to a School; that remains the prerogative of the Minister. The magistrate makes only a "reasoned report" to the Minister. Moreover, when no "person in authority" takes the initiative in bringing a child before the magistrate, the Minister may authorize admission to a School on his own authority. Thus, while the commitment process normally combines judicial discretion and ministerial authority, ministerial authority alone is sufficient. There is opportunity for review of the Minister's admission in the latter case or where some other official has substituted for the magistrate in hearing a case. It may be applied for by a "person in authority" which includes a parent and an official of the municipality of domicile. The application for review is heard by a magistrate and a copy of his judgment is transmitted to the Minister for his consideration.

Release from a School is granted by the Lieutenant-Governor in Council on recommendation of the Minister. Any parent, or other person who has charge of the child, who does not accept the child on release is liable, on summary conviction, to a fine not exceeding fifty dollars or to imprisonment not exceeding two months.

The principle of commitment does not vary greatly from the method followed in sending children to the former industrial schools. In each instance, there is a recommendation from a judicial official to a Minister who makes the final decision. Under the previous legislation, the decision rested with the Provincial Secretary rather than with the Minister of Social Welfare and of Youth.

Maintenance of Children and Finance

Provincial-municipal relations are in the process of adjustment in Canada and the search for workable financial arrangements is reflected in changes in public support of dependent children. Moreover there have been some revisions in laws relating to parental support of children.

Since 1949 the government of Ontario has reimbursed the municipality of residence for 25 per cent of the cost of maintenance of a neglected child.[1] In 1951 it agreed to extend this provision to the cost of hospitalization.[2] In addition Ontario gives an annual grant to each children's aid society, the grants being graded in accordance with administrative standards, and also makes an additional grant to each society equal to 25 per cent of the amount the society raises from voluntary donations.

1/ S.O., 13 George VI, c. 11, s. 4 (1949).
2/ S.O., 15 George VI, c. 11, s. 2 (1951).

In 1950 under the new Child Welfare Act the government of Nova Scotia established a program of assistance to children's aid societies which has some similarity to the Ontario plan. Previously each society received a grant equalling other revenues except maintenance payments and endowments. The grant was not to exceed $2000. Societies having jurisdiction in more than one county received an additional similar grant not exceeding $1000 for each additional county it served. Under the 1950 Act, each society received three kinds of grants annually: first, a grant not exceeding $2000 based on standards attained by the society; secondly, a subsidy equalling 25 per cent of voluntary subscriptions plus 25 per cent of grants from municipalities exclusive of their payments for ward care; thirdly, a per capita grant based upon the population of the societies' area of jurisdiction, namely one cent per person in areas with 75,000 or more persons and two cents per person in areas with less than 75,000 persons.[1] In 1952 these grants were enlarged substantially. In respect to the second of the grants mentioned above, the basis of the provincial payment was increased from 25 to 50 per cent. The per capita grant was also enlarged to two cents per person in areas with a population over 75,000, four cents in areas with a population between 15,000 and 75,000 and ten cents for areas with a population under 15,000.[2]

Under both the earlier Nova Scotia Children's Protection Act and the new Child Welfare Act, 1950, the costs of maintaining children in institutions or boarding homes are met both by the provincial government and by the municipality of residence. The amounts paid by both authorities have been increased during the period under consideration by legislative amendment in 1949, by the new Act of 1950 and by amendments to it in 1952 and 1953.[3] Prior to the 1949 amendment, the municipality of residence was required to pay $3.00 per week on behalf of children in both homes and institutions and the province was required to pay $2.00 per week with a supplementary amount of $2.00 payable in cases of need. As a result of the successive increases since then, the municipality of residence paid in 1953 $6.00 per week on behalf of children in institutions and the province paid $4.00. Both authorities paid $4.00 per week on behalf of children in boarding homes.

New Brunswick in 1950 raised both the municipal and provincial contributions required for the maintenance of children committed to various institutions from $225.00 to $287.50 a year.[4]

1/ S.N.S., 14 George VI, C. 2, s. 29 (1950).
2/ S.N.S., 1 Elizabeth II, c. 78, s. 2 (1952).
3/ S.N.S., 14 George VI, C. 2, ss. 37, 39 (1950); 1 Elizabeth II, c. 78, s. 5 (1952); 2 Elizabeth II, c. 46, s. 1 (1953).
4/ S.N.B., 14 George VI, c. 24, s. 1 and s. 2 (1950).

Manitoba in 1949 brought in an amendment which releases a municipality from maintenance of a neglected child enrolled for a monthly allowance as a bereaved and dependent child.[1] Saskatchewan broadened the penalty for default of maintenance payments by a parent. Distress action against property may now be taken as an alternative to imprisonment for 30 days, or in addition to such penalty.[2]

In 1951 Saskatchewan changed its Social Aid Act to make it clear that financial aid granted for the maintenance of neglected and dependent children who are permanent wards of the Minister is not to be considered public assistance as defined in the section dealing with residence. For purpose of acquiring residence, therefore, a permanent ward is considered self-supporting.[3] An amendment to the Child Welfare Act in 1953 gives the court power to vary an order of maintenance on parents.[4]

In 1953 an amendment to the Child Welfare Act, Saskatchewan, provided that any needy parent, or needy person having actual custody of a child, if unable to care for him might apply to the Social Welfare Board to have the children taken into foster care. Previously, only parents themselves or a relative caring for orphan children could apply. The amendment also provided that such an agreement for foster care could be made for a period not exceeding one year and that it could be renewed from year to year. Previously an agreement could be made for only six months and then only for a further period not exceeding six months. Finally a clause was added permitting the Director of Child Welfare to terminate a foster care agreement and bring the child before a judge for examination. The judge after examination may make an appropriate order as provided for in hearing cases of neglect.[5]

Under its Youth Protection Schools legislation, the Province of Quebec shares the cost of support equally with the municipalities of domicile.[6] However, each municipality does not pay for the actual cost of each child at a particular school, as was done under the industrial schools' formula. Instead, an average cost is established by dividing the total amount of annual expenses incurred by all Schools by the total number of children days. While this is the legal formula

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1/ S.M., 13 George VI, c. 7, s. 2 (1949).
2/ S.S., 13 George VI, c. 106, s. 4 (1949).
3/ S.S., 15 George VI, c. 88, s. (1951).
4/ S.S., 2 Elizabeth II, 1953, c. 104, s. 9 (1953).
5/ Ibid, s. 15.
6/ S.Q., 14 George VI, c. 11, s. 28 (1950).

under the Act, in actual practice the provincial government now pays approximately 85 per cent of the cost.1/

Institutional Care of Children

Apart from the Youth Protection Schools Act in the Province of Quebec, there were no significant changes in legislation affecting the institutional care of children. Important developments in the policies and practices of institutions have taken place, however, and these are discussed below in the section on trends in child welfare.

Under the Youth Protection Schools Act, 1950, of Quebec an institution may be recognized as a school for the purposes of the Act following investigation by the Department of Social Welfare and of Youth. Some schools receive neglected children, others receive young delinquents. In addition the Act provides for the classification of the schools to allow a proper segregation of children taking into account their sex, age, religion, physical and intellectual developments and their background. Schools are inspected by representatives of the department.2/

3. Adoption Law

Changes in adoption legislation were made in the majority of the provinces during the period under review. These related particularly to the qualifications required of adoptive parents, to parental consent and to the probationary period. New Adoption Acts amending and consolidating previous legislation were passed in Prince Edward Island and Nova Scotia. In addition several important changes were made in the Ontario Act and amendments were passed in Alberta, Manitoba and Newfoundland.

Adoption Applications

In 1949, Ontario modified provisions of its Adoption Act regarding the required qualifications of adoptive parents and of persons to be adopted. The previous legislation provided that the applicant could not be under 25 years of age and that he had to be at least twenty-one years older than the person adopted; an adoption order could be made, if these requirements were not met, only with the consent of the Minister of Public Welfare. Under the new provision, the judge alone

1/ Correspondence from the Province of Quebec.
2/ S.Q., 14 George VI, c. 11 (1950).

decides whether there are special circumstances that justify, as an exceptional measure, the making of an adoption order. The amendment also specifically states that the applicant should not be single, widowed or divorced, but grants the judge power to make an order, in his discretion, notwithstanding.[1]

The Minister's permission was also previously required for an application to adopt a person over twenty-one or under twenty-one and married. The new legislation provides that the Provincial Officer must certify that the person sought to be adopted in such a case was brought up by the applicant as his own child under a de facto adoption. If the Provincial Officer cannot certify this, then the court still has the right to grant the adoption after reviewing all circumstances of the case.[2]

An amendment in 1951 to the Child Welfare Act of Manitoba provided that in cases of absolute adoption following a de facto adoption for seven years or more, written notice of the application for absolute adoption must be served on the parents or guardians of the child if there are any. There is judicial discretion to dispense with the notice or issue a subsitutional service of the notice. No notice is required if the child is over 21 years of age.[3] Formerly the Act provided for absolute adoption without parental consent if the applicant had been maintaining the child under a de facto adoption, but it made no provision for serving notice upon parents in such cases.

Alberta amended its adoption procedure in 1949 with a ruling that an applicant for adoption can no longer apply directly to a judge by petition. Every application must be investigated by the Child Welfare Commission which then presents a report to the court.[4]

In 1950 a new Adoption Act was passed in Prince Edward Island which consolidated previous legislation and which contained a number of new provisions. Among these was the requirement that the petitioner, an adult, must not be the husband or wife, the brother or sister, the aunt or uncle, either of whole or half blood of the minor to be adopted. Previously any adult person was able to apply for the adoption of an infant. The Act also made it mandatory that if the petitioner was married, the spouse must, if competent,

1/ S.O., 13 George VI, c. 1, s. 1 (1949).
2/ Ibid., s. 1.
3/ S.M., 15 George VI, c. 6, s. 2 (1951).
4/ S.A., 13 George VI, c. 21, s. 13 (1949).

join in the petition, the child when adopted being deemed the child of both. Previously the legislation did not specify that, in such cases, joint petitions should be made.1/

Adoption Consent

The Adoption Act, 1950, of Prince Edward Island provided that if the person to be adopted was born outside the province or if the petitioner was not a resident of the province, the written consent of the Director of Child Welfare was required before completion of the adoption.2/ Previously the consent of the Attorney General was required. Consent of the person associated with the child as parent or guardian may be dispensed with under the Act if he is adjudged incurably insane, is imprisoned with a term of more than two years remaining at the date of petition, has deserted or neglected the child or permitted him to be supported by an institution or society for more than one year.3/ Previously consent could be dispensed with only if the person concerned failed to appear at the hearing, failed to oppose the adoption, or if he did oppose it, did not do so on grounds appearing sufficient. The judge may still dispense with consent for these reasons.

In 1949 the provisions in Ontario dealing with the power of the court to dispense with parental consent to adoptions were amended. Previously the Act listed, along with a general clause, specific instances which warranted dispensing with consent. The amendment gave the judge general powers to dispense with such consent, "having regard to all the circumstances of the case". The amendment, unlike the previous legislation, made no provision for notifying the person concerned that his consent was dispensed with.4/

Another change was one in terminology relating to consent by a children's aid society. Consent may be given where an infant "has been committed permanently to the care and custody of a children's aid society". The term formerly employed in this connection in the Act was "permanent guardianship".5/

The 1949 amendment also provided that an adoption order pertaining to anyone over twenty-one years of age, or under twenty-one years of age and married, could only be made with that person's consent and, if married, the consent of the

1/ S.P.E.I., 14 George VI, c. 2 (1950).
2/ S.P.E.I., 14 George VI, c. 2, s. 5 (1950).
3/ Ibid., s. 3.
4/ S.O., 13 George VI, c. 1, s. 1 (1949).
5/ Ibid., s. 1.

spouse. In 1950, Section II of the Adoption Act which permitted an adoption order without the consent of parents or guardian when a de facto adoption had already taken place was repealed.[1]

An amendment in 1951 to the Welfare of Children Act, 1944, in Newfoundland provided that the consent of the mother only is required for the adoption of an illegitimate child.[2] The Act formerly provided for the consent of a guardian but made no specific provision for children born out of wedlock. A new section was added whereby, in the case of a child under 14 who is without living guardians or when any person whose consent is required cannot be found in Newfoundland, the Director of Child Welfare may give his consent in the name of the guardian.[3]

In its amendment and consolidation of the adoption law in 1952, Nova Scotia deleted a clause in the 1923 Act which waived the consent of a parent serving more than three years in the penitentiary or convicted of a moral offence. However, the judge is given wide latitude where the parent is "a person whose consent, in all the circumstances of the case, ought to be dispensed with".[4]

Nova Scotia introduced additional amendments relating to consent. A child over twelve years must now be consulted about his adoption whereas the age was fourteen before.[5] Parental consent may now be ignored in cases of wilful desertion and neglect to provide.[6]

Probation Period

In 1951 Ontario reduced the probation period with adopting parents from two years to one.[7] Prince Edward Island requires a six months probation period, with the petitioner under the supervision of a recognized child welfare agency if the person to be adopted is under 16 years of age.[8] The agency must submit a report to the court. In 1949 Alberta provided a one year probation period for the adoption of a child who was not a ward of the court, unless it could be shown that there was

1/ S.O., 14 George VI, c. 79, s. 1 (1950).
2/ S.N., 15 George VI, c. 73, s. 7a (1951).
3/ Ibid., s. 7.
4/ S.N.S., 1 Elizabeth II, c. 2, s. 5 (1952).
5/ Ibid., s. 5.
6/ Ibid., s. 5.
7/ S.O., 15 George VI, c. 2, s. 2 (1951).
8/ S.P.E.I., 14 George VI, c. 2, s. 1 and s. 3 (1950).

good cause to waive this period.1/ A provision in the original Act, calling for the same procedure with a government ward, continued to apply.

Removal of a Child from a Province

A provision in Nova Scotia's legislation states that no person shall take any child under the age of twelve who is resident or born in Nova Scotia out of the province for the purpose of being adopted or brought up elsewhere unless a certificate has been issued by the Director.2/

The Director is required to investigate the proposed home. Exempt from the provisions are cases where the child is being taken to reside with a natural or adoptive parent, where the child is the legitimate child of the person taking him, and where the person has formally adopted the child. The refusal of a director to grant a certificate may be appealed to a County Court which may confirm the refusal of the Director, or itself issue such a certificate. In dealing with such an appeal the court is not bound by the rules of evidence.

4. Children of Unmarried Parents

A major change in unmarried parents legislation occurred in Nova Scotia where a new Act altered considerably the law in that province. A new Act consolidating previous legislation was passed in New Brunswick. Saskatchewan, Newfoundland and Manitoba amended existing legislation. These changes largely affected methods of initiating actions for affiliation orders, court procedure during such actions and the financial liability of the putative father.

Initiation of Action

In 1951 a new Act (The Children of Unmarried Parents Act) was passed in Nova Scotia.3/ The Act changed among other provisions those relating to the initiation of filiation proceedings. Previously these were undertaken on behalf of the poor district, city or town to protect it against having to maintain a child who was likely to become chargeable. Proceedings could be undertaken without reference to the wishes of the mother. Thus, it was required that a single pregnant

1/ S.A., 13 George VI, c. 21, s. 14 (1949).
2/ S.N.S., 14 George VI, c. 2, s. 122 (1950).
3/ S.N.S., 1 Elizabeth II, c. 3 (1950).

woman, on the instance of a ratepayer, provide information if the child was likely to become chargeable. If the child had already been born, the mother and the putative father could be apprehended upon application of a ratepayer and filiation proceedings initiated.

Procedure under the new Act was modified considerably. Less emphasis was placed upon a child becoming a public charge and the provision that any ratepayer might lay an information before a magistrate was repealed. Under the amendment, action on behalf of a local authority could be taken by an overseer of the poor of the district of settlement or the municipal clerk. Others permitted to lay information before a magistrate are the mother, her parents, the Director of Child Welfare or the agent of a children's aid society. The Act also stipulates that upon information being laid certification by a qualified medical practitioner that the woman is pregnant must be filed with the magistrate or justice. The new Act provides also for the serving of a summons upon the putative father and for his apprehension by warrant if he does not respond to the summons. Previously apprehension by warrant alone was provided for.

New Brunswick brought in a new Act in 1951 designed to consolidate previous legislation. Initiation of action continues to rest with the mother and the overseer of the poor who has authority to lay an information if the mother refuses to do so.[1] Although the judge may vary his own decision, there is no appeal from it except on a question of law.[2]

Court Proceedings

Saskatchewan made fairly extensive revisions to its unmarried parents legislation in 1953 and a new provision makes it possible for a judge, in making an adjudication prior to the birth of the child, to require a bond from the father to guarantee his presence at the hearing.[3] No filiation proceedings are to be taken after the marriage of a single woman at any time subsequent to the date of conception of the child.[4]

There was also an amendment simplifying the procedure for establishing that a child of a married woman was not a child of her husband.[5]

1/ S.N.B., 15 George VI, c. 165, s. 3 (1) and (3) (1951).
2/ Ibid., s. 14.
3/ S.S., 2 Elizabeth II, c. 104, s. 19 (1953).
4/ Ibid., s. 20.
5/ Ibid., s. 25.

Newfoundland now requires of the putative father, as guarantee of appearance at future hearings, a bond of a minimum of $750 rather than a maximum of $1000.[1] Nova Scotia set a maximum bond of $1000 to guarantee court appearance after birth of the child.

Nova Scotia added a number of new sections relating to procedure. No proceedings are to be commenced after the expiration of two years from the date of birth of the child, but if the putative father has paid money for the maintenance of the child or has maintained him, or has left the province before the expiration of two years, or has admitted in writing paternity of the child, then such proceedings may be commenced within one year after these events.[2] Husband and wife are competent to give evidence of non-access.[3] Irregularities are not to vitiate proceedings.[4] Closed hearings are now required and the Director of Child Welfare may intervene and call and examine witnesses.[5] The marriage of a single woman at any time between the date of the conception of the child and the date of its birth bars proceedings.[6]

Age for Support

New Brunswick raised the age limit for support of an illegitimate child from 14 to 16.[7] The Nova Scotia Act is now explicit that support must be given up to sixteen years of age.

Maintenance Provisions

The Saskatchewan amendment of 1953 gave greater latitude to the judge in deciding the amount of the lump sum payment to be made for support of a child.[8] Formerly there was a stated minimum of $1200. This figure remained in the amended Act as the maximum amount which a judge may require as a bond when making an order for support against a putative father. Alternatively, the father may make a cash deposit as directed by the judge.[9] The father is required to make the payments to the Department where the funds are placed in a special

1/ S.N., 15 George VI, c. 72, s. 3 (1951).
2/ S.N.S., 15 George VI, c. 3, s. 14 (1951).
3/ Ibid., s. 22.
4/ Ibid., s. 20.
5/ Ibid., s. 23 and s. 24.
6/ Ibid., s. 26.
7/ S.N.B., 15 George VI, c. 165, s. 37 (1951).
8/ S.S., 2 Elizabeth II, c. 104, s. 19 (1953).
9/ Ibid.

trust account and paid out monthly. If a child dies, is adopted or is in the custody of a married mother, the Minister may return the money to the father or forfeit or dispose of the money as he thinks fit.[1] Formerly, it was mandatory that the money be forfeited to the Crown.

In Newfoundland no changes were made in the provisions for weekly maintenance payments but provisions relating to lump sum payments were among the 1951 amendments. The liability may still be satisfied by payment of a sum not less than $750 to be paid over a period of not more than three years but, in addition to this, the putative father must meet medical and maintenance expenses related to the birth of the child.[2]

Newfoundland also increased from $250 to $750 the minimum amount of the bond that a putative father may be required to put up for the fulfilment of the affiliation order. The Act does away with the maximum bond of $1000. It provides also that, in lieu of a bond or cash deposit and with the consent of the Director of Child Welfare, the magistrate may accept the recognizance of the father for a sum not less than $750. The amendment also provides that the costs a putative father may be required to pay under an order of affiliation include a counsel fee not exceeding $50 which shall be paid by the Director to counsel for the complainant. Formerly the Act provided that the father may be required to pay "the costs of all proceedings" under this part of the Act.

The amendment stated that if the father pays a lump sum in lieu of weekly payments, he must pay in addition to the previously stipulated amount of $750 the expenses incidental to the birth of the child and the lying-in and maintenance of the mother at and before the birth.[3]

In Nova Scotia a putative father formerly had the option of entering a bond of $150 for a filiation order or paying a lump sum ranging from $150 to $500. The 1951 Act required that he enter a bond of not less than $1000 and the lump sum ranged from $500 to $1000. Payments by the father are now paid to a person who, in the opinion of the magistrate, is capable of applying the money properly and who consents to receive it. The Act specifically states that the money is paid for the benefit of the mother and the child. Formerly money was paid only to the overseers of the poor for the poor district, city or town. Furthermore, the Director of Child Welfare may now require reports on the use of the money. Any

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1/ Ibid.
2/ S.N., 15 George VI, c. 73, s. 4 (1951).
3/ S.N., 15 George VI, c. 73, s. 5 (1951).

balance remaining upon the death or adoption of the child are paid to the Director who may use it to defray the expenses of proceedings under the Act or for the benefit of the children of unmarried parents. With regard to responsibilities of the mother for maintaining the child, the new Act deleted the provision in the previous Act that permitted the court to require the mother to nurse the child.

The new Act also permits the mother and putative father to enter an agreement for the maintenance and education of the child. If such an agreement is made, no proceedings need be taken under the Act. The Director of Child Welfare or a children's aid society must be a party to such an agreement.1/

The Saskatchewan Act of 1953 made it possible for the unmarried mother to apply for assistance under the Social Aid Act on the same terms as other persons.2/

Manitoba in 1953 provided that the estate of a father of a child born out of wedlock may be chargeable for the maintenance of the child.

Legitimation

In 1950, Ontario conferred legitimate status on a child born of remarriage when the former spouse of one of the parties, believed or legally presumed dead, is found to be alive.3/

5. Maintenance of Deserted Wives and Children

A number of the Canadian provinces have made changes in their Deserted Wives' and Children's Maintenance Acts, as well as in the companion legislation on reciprocal agreements for enforcement of maintenance orders. Saskatchewan and Newfoundland brought down new Acts,4/ while amendments were made in New Brunswick, Ontario, Alberta and British Columbia. Changes were concerned mainly with definitions of desertion, with court procedure and with maintenance.

1/ S.N.S., 15 George VI, c. 3, s. 5 (1951).
2/ S.S., 2 Elizabeth II, c. 104, s. 24 (1953).
3/ S.O., 14 George VI, c. 36, s. 1 (1950).
4/ S.S., 14 George VI, c. 73 (1950) and S.N., 1 Elizabeth II, c. 19 (1952).

Definitions

The new Saskatchewan Act now uses the term "parent" rather than "father" as previously, a change which makes the mother liable in certain instances.

The Saskatchewan and Newfoundland Acts are similar in their definition of a deserted child. Desertion is present not only when a child is lacking support by his parents but also when he has left or has been removed from the home because of neglect, misconduct or acts of cruelty by the parents. The Saskatchewan Act includes in its definition of a child, a child born out of wedlock to the wife when the husband knew at the time of marriage of the existence of the child. It also includes a child of unmarried parents who lived together and cohabited for at least one year, where proceedings under the Act are commenced within two years from the time the couple ceased cohabiting, or from the time the parent last gave support. In Newfoundland a child must be under seventeen; in Saskatchewan he must be, as formerly, under sixteen years of age.

In both provinces a "deserted wife" is one subjected to cruelty, adultery which has not been condoned or refusal of maintenance. In Newfoundland a woman may also be regarded as deserted when the husband is incapable of managing his affairs through drinking and is not a fit and proper person to have the custody and control of his children. The meaning of deserted wife was changed in British Columbia in 1949 and again in 1951.1/ Under the later amendment, a wife is considered deserted if her husband has left her without reasonable cause or if she is living apart from her husband because of cruelty, neglect, drunkenness or adultery.

The new legislation in Saskatchewan and Newfoundland defined cruelty for the first time in those two provinces. This definition included, in both provinces, "any course of conduct which in the opinion of the court is grossly insulting and intolerable or is of such a character, without proof of actual personal violence, that the wife or children seeking maintenance could not reasonably be expected to be willing to live with the husband or parent after he has been guilty of the same".

Court Procedure

In Saskatchewan a new provision was added whereby service of a summons or notice may be made by any person on behalf of

1/ S.B.C., 15 George VI, c. 21, s. 2 (1951).

the complainant. Both Newfoundland and Saskatchewan now allow substitutional service of summons, or for the substitution of notice for service, by letter, public advertisement or other means.

Through its 1951 Act, New Brunswick is more explicit as to where the father may be summoned and includes wherever the father or child resides, or where the husband and wife reside, whichever the case may be. Where the husband or father is out of the province, the magistrate may order the summons to be served wherever he is found. Upon filing of proof of service, the magistrate may then proceed in the same manner as if a summons had been served upon the husband or father within the province.[1]

Newfoundland introduced a provision whereby a husband and wife are competent and compellable witnesses against each other and Saskatchewan added a similar provision. Both provinces now make it clear that the burden of proof of inability to pay maintenance is on the person alleging it and, in Saskatchewan, if the husband or parent ignores a summons to the trial, then an order may be made in his absence. Moreover, where proceedings are taken for enforcement of a maintenance order, it is not necessary to prove that the person involved was served with a copy.

Another new provision in Saskatchewan is that the court may request a husband or parent, who alleges that he is physically unable to work, to produce a certificate from a designated medical doctor. No limitation of time is set for bringing an action.[2] An order under the Act has priority over other debts.

Maintenance Provisions

In 1951 the Domestic Relations Act of Alberta was amended to raise the maximum weekly payment from $20 to $30.[3] Saskatchewan did away with the $20 maximum but set no upper limit. A 1950 Ontario amendment also gives the magistrate greater discretion by permitting him to fix payment at appropriate intervals rather than requiring "weekly sums".[4] The new Newfoundland Act follows the same principle.

1/ S.N.B., 15 George VI, c. 145, s. 9 (1951).
2/ S.S., 14 George VI, c. 73, s. 23 (1950).
3/ S.A., 15 George VI, c. 29, s. 2 (1951).
4/ S.O., 14 George VI, c. 15, s. 2 (1950).

Saskatchewan now includes a fee for counsel in addition to the usual court costs within the amounts which may be payable by husband or parent. Moreover, a deserted wife or child applying for and receiving social assistance may be provided with legal aid.[1] Newfoundland added a new provision common to many acts, whereby proceedings are barred by a separation agreement if the wife has released her husband from liability to support. However, this does not apply where the husband is in default of maintenance under the agreement, where the separation agreement is out of line with his circumstances, or where the wife has become or is likely to become a public charge or in need of public assistance. New Brunswick has a new section saying that no separation agreement, or private undertaking, shall affect the jurisdiction or discretion of magistrate to make an order. All the Acts contain a provision that no order is to be made in favour of a wife who is proved to have committed adultery unless the adultery has been condoned. The Saskatchewan Act reads "unless the adultery has been condoned or by the husband's misconduct conduced to".[2]

Saskatchewan increased the bond on a maintenance order from $500 to $1000. A new provision is that commitment to prison does not affect enforcement of the maintenance order. Also new is the fact that a maintenance order may be filed against land and becomes a lien or charge. Provision is also made for the order to derive the benefit of The Maintenance Orders (Facilities for Enforcement) Act.

The Health and Welfare Act, 1931, of Newfoundland formerly had a provision that no order of a judge was effective against landed property unless approved by a judge of the Supreme Court who then had power to order sale of the property. This provision does not appear in the new Act, although an appeal may be taken to the Supreme Court for any judgment, order, or connection.

Ontario, by means of a 1953 amendment, dealt at length with enforcement when a person fails to appear in answer to a complaint. Instead of issuing a warrant to compel attendance, the judge may, if he is satisfied that the defendant is still in Ontario, make a provisional order which must be confirmed by a judge of the locality in which the defendant resides.[3] In the event that the second judge does not think the order should be confirmed, he may remit the case to the original judge who may proceed with the case as though the

1/ S.S., 14 George VI, c. 73, s. 35 (1950).
2/ S.S., 14 George VI, c. 73, s. 11 (1950).
3/ S.O., 2 Elizabeth II, c. 28, s. 1 (1953).

order had not been made. Provision is made for variation or rescission of a confirmed order and for appeal.[1]

Maintenance Orders (Facilities for Enforcement)

Common to most Canadian provinces are the Maintenance Orders (Facilities for Enforcement) Acts. Newfoundland passed an Act for the first time in 1951 and its provisions are summarized to illustrate the general nature of this legislation, although there are provincial variations.[2] The Act defined a maintenance order as an order for the periodic payment of sums of money toward the maintenance of the wife or other dependents.

The Act also provides for agreements with other Canadian provinces and with jurisdictions outside of Canada, for the reciprocal enforcement of judicial orders against parents. When an order is made in a Newfoundland court against a parent residing in a reciprocating state a copy of the order is forwarded, through the Attorney-General of Newfoundland and a similar official in the reciprocating state to the Court in the locality where the parent is residing. It then has the validity of an order made by that Court. Newfoundland honors, in the same manner, an order made by a reciprocating state.

6. Registration Procedures for Births and Adoptions

Adequate methods of birth registration are increasingly important for identification or proof of birth. In addition to efficiency of operation, confidentiality of records is also important, particularly in regard to the registration of births of children born out of wedlock, and of adoptions.

During the period under review, Saskatchewan, Prince Edward Island, New Brunswick and Nova Scotia all introduced new Vital Statistics Acts.[3] Each was based upon a model vital statistics act proposed by the Vital Statistics Council of Canada. A number of the terms of the four Acts are presented below but not all of these represent changes from previous legislation.

1/ Ibid., s. 1.
2/ S.N., 15 George VI, c. 9 (1951).
3/ See S.S., 14 George VI, 1950, c. 14; S.P.E.I., 14 George VI, 1950, c. 31; S.N.B., 14 George VI, 1950, c. 171; and S.N.S., 1 Elizabeth II, 1952, c. 8.

Birth Registration

In each instance, the Act places primary responsibility for birth registration upon the mother. Each Act deals at some length with the position of the unmarried mother, the putative father, and also with that of a married woman who has a child by a man other than her husband. Three of the Acts make it clear that the father of an illegitimate child is not expected to comply with birth registration procedure. Prince Edward Island achieves a similar effect by the provision that the registration of the birth of a child of an unmarried woman shall show the surname of the mother as the surname of the child, and no particulars as to the father are to be given.1/ However, if the acknowledged father joins with her in a request to the Director, particulars of the father may be given, or the birth may be registered under his name, or both procedures may be followed. Provision is made for amended registration.

Ordinarily the birth of a child of a married woman is to be registered under the surname of the husband, and the particulars of the husband are to be given as those of the father of the child. An exception arises in Saskatchewan and New Brunswick in the case of a married woman who files with the Director a statutory declaration that at the time of conception she was living apart from her husband, and that he is not the father of the child. In both provinces, no particulars as to the actual father are required in the birth registration procedures unless the mother and the man who acknowledges paternity make a request in writing. If this is done, particulars of the father may be given, or the birth may be registered under the surname of the acknowledged father, or both actions may be taken. If the request is made after birth registration, the registration may be amended.

The Prince Edward Island procedure varies somewhat from the above. In this case, the woman, or her husband, may apply to a Judge of the Supreme Court if she has previously registered the child under her husband's name or has not registered it at all. The judge, if satisfied that the husband is not the father of the child, may order that the Director accept a new registration, or where a registration has not previously taken place, accept a registration under a surname other than that of the husband. The acknowledged father has the opportunity of registering the child under his name or giving particulars, as described above. If he does not do so, registration is made under the mother's maiden name.2/

1/ Prince Edward Island, op. cit., s. 4.
2/ Prince Edward Island, op. cit., s. 6.

Nova Scotia does not provide for a statutory declaration from a married woman living apart from her husband; the child is registered as usual under the surname of the husband, with the particulars of the husband given as those of the father.1/

Birth Registration of Foundlings

All of the new provincial Vital Statistics Acts deal at length with specific procedures to be followed in the registration of foundlings. The Saskatchewan Act is quoted here because it is typical of the others.

There is an obligation upon anyone who finds a new-born deserted child, or has charge of it, to communicate with the division registrar and file a statutory declaration on the facts of the case. The child must be examined by a doctor with a view to determining as nearly as possible the date of the birth of the child and the doctor's findings must be set forth in a statutory declaration.

Upon receipt of this information, the Director of Vital Statistics, if satisfied as to its correctness, shall register the birth and the registration must establish for the child a date of birth, a place of birth, a surname and a given name. A copy of all documents must then be sent to the Director of Child Welfare. If subsequent to the registration of the birth, the identity of the child is established to the satisfaction of the Director, he has power to issue a new registration.

Registration of Adoptions

Sections on registration of adoptions in the four provinces generally follow the recommendations of the Vital Statistics Council.

In New Brunswick, for example, when the Director receives a certified copy of an adoption order under The Adoption Act, he registers it by endorsing his signature on the copy which then constitutes the registration of the adoption. He then makes a notation of the adoption and of any change of name on the registration of the birth, and enters a notation of birth registration on the registration of the adoption. This procedure also applies where a person is adopted outside of the province upon receipt of a certified copy of the order and satisfactory evidence on the identity of the person.

1/ Nova Scotia, op. cit., s. 3.

Where a person born outside the province is adopted, the Director is required to send a copy of the order to the registrar of the jurisdiction in which the person was born. Where a notation of adoption and a change of name have been made, any birth certificate is to be issued under the new name.

Confidentiality of Records

The four provinces with new Acts have comprehensive sections on the confidentiality of records. The Prince Edward Island statute illustrates what is generally found. If the Director is satisfied that it is not to be used for unlawful or improper purposes, any person may obtain a certificate of the registration of the birth of any person. However, a certified copy of photographic print may be issued only to a person who requires it to comply with the Adoption Act, an officer of the Crown who requires it for official duties, or to someone with the written permission of a Minister or the Crown or the order of a judge. All Acts specifically forbid the issuing of a certificate, certified copy or photographic print in regard to the registration of an adoption or change of name.

Appeal

Each Act makes provision for appeal. A judge may order the Director to re-register a birth. Similarly, an appeal may be taken from refusal of the Director to search or issue a certificate, and from his decision on revoking a fraudulent registration and certificate.

7. Employment of Children[1/]

Protective labour legislation relating to children comes largely within the jurisdiction of the provinces, all of which have laws restricting the age at which children may undertake certain types of employment. Child labour is also indirectly controlled by provincial school attendance legislation. All provinces have compulsory legislation which requires school attendance to the age of 16 years in four provinces, 15 years in five provinces and 14 years in one province.

During the period under review there were few changes in school attendance legislation. Newfoundland however amended

1/ Detailed information concerning child labour laws is contained in the annual publication of the Federal Department of Labour entitled Provincial Labour Standards.

its school attendance law raising the school-leaving age from 14 to 15.[1] Exemptions to this provision are allowed for specified periods which, in respect to children under 12 years of age, may not exceed two months in a school year except with the approval of the Commissioner for Education.

Exemptions from school attendance are permitted in all provinces in case of illness, distance from school or lack of accommodation. Except in British Columbia, they are also permitted for home duties and employment under certain circumstances. Exemptions for employment are rarely given until a child has attained a prescribed level of education varying, as between provinces, from the completion of elementary school to the completion of matriculation. An important factor in the granting of exemption is whether the children's services are needed for the family livelihood. Exemptions from school for paid employment are, in most provinces, provided by certificates which name the employer and describe the work to be engaged in.

Notable support has been given to provincial school attendance legislation by the federal family allowance program. Family allowances are payable only if a child's attendance at school is satisfactory in accordance with the laws of the province where he resides and, if over school age, he is not working for a salary or wages. Reports issued by a number of provincial school authorities show that there has been a steady improvement in school attendance since the inception of family allowance and a large measure of the credit for the improvement is attributed to the allowances. Their effect has been two-fold. First, the withholding of allowances in case of unsatisfactory attendance is an incentive for parents to see that the child returns to school, and, secondly, the receipt of Family Allowances in many cases has enabled parents to provide more suitable food and clothing which in turn has enabled them to keep the child in school. This appears to be borne out by a decrease in some provinces in the number of work permits that the school authorities are called upon to issue. In many cases the payment of allowances has meant that parents are able to keep their children in school after the child has reached the school leaving age and is no longer required by law to attend.

Minimum Age for Employment

The Parliament of Canada, having jurisdiction over shipping, has, in the Canada Shipping Act, made 15 years the minimum age for work at Sea. This is in accordance with the International Labour Convention.

1/ S.N., 15 George VI, c. 27, s. 2 (1951).

Provincial Legislation dealing directly with minimum age for employment relates largely to mines, factories and ships. The question of a minimum age for employment in agriculture, which the International Labour Convention places at 14 years, has not been a subject of direct provincial legislation.

Some provinces declare certain occupations to be dangerous and prohibit employment within them under specified ages. As a means of enforcing this and other child labour provisions all provinces have made some provision for enforcing the keeping of registers by employers listing employees under a certain age. In some provinces this is 16 years, in others 17 and in others 18.

8. Trends in Child Welfare[1]

In the period under review Canadian child welfare has placed continued emphasis upon protection services because of the support they offer to family life. New knowledge of the values that exist in the emotional relationship between parent and child, even under less than favourable conditions, has given additional support to the traditional belief in the importance of the family unit. Financial considerations also support this emphasis. In a study conducted by a Children's Aid Society in 1951, it was reported that the annual cost of meeting the needs of children in foster homes was $528 per child, whereas the cost of helping families through casework services to meet these needs in their own homes was only $31 per child.[2]

Improvement in protective services has been made possible by the changes in the financing of Children's Aid Societies in Ontario and Nova Scotia which have previously been noted. In Manitoba a Rates Establishment Committee formed in 1952 is empowered to study all costs in maintaining children and set a rate to be charged against the municipality of residence. The Province of British Columbia, in addition to giving special assistance to the Children's Aid Societies has undertaken to study the respective roles of public and private child welfare to determine means of ensuring adequate support for these essential services.[3]

While these and other improvements were taking place during the period, financial limitations and the shortage of

1/ This section includes information provided by the Canadian Welfare Council.

2/ Province of Ontario, Report to the Minister of the Committee on Child Care and Adoption Services (Toronto: Department of Public Welfare, 1953), p. 14.

3/ Province of British Columbia, Report of the Social Welfare Branch of the Department of Health and Welfare, 1952.

qualified welfare personnel continued to make it difficult for agencies to secure the skilled staff and facilities necessary in conducting preventive and treatment programs of high quality.

Adoption Practice

Adoption policies in parts of Canada have been influenced by the implications of the decision in the legal case Martin vs. Duffell. This was the case of an unmarried mother who, under private arrangements, had given up her child to prospective adoptive parents. She then sought to regain the custody of her child through the Court of Appeal of Ontario, and her plea was granted on the evidence that the maternal grandparents would adopt the child in England. The major issues in the appeal to the Supreme Court were the validity of the mother's consent, the claim of the grandparents that they could provide a proper home for the child, and the respective rights of both the natural mother and the foster parents. The Court respected precedent in similar cases and restored the child to the mother.

As a result of publicity given to the case, several provinces have formally or informally re-examined the legislation in their provinces. In some instances the initiative was taken by the Bar Associations. In others, it was handled as a departmental measure. As a result of these discussions, several conclusions seem to have emerged.

Agencies and communities alike seem to have accepted the fact that, because of the well-established right of the natural mother to plan for her own child, full security cannot be offered to adoptive parents until an order of adoption has been made by the court. There also appears to be general agreement that it is not possible, and probably not desirable, to attempt to transfer guardianship from a natural parent to the adopting parent for the probationary period. The probationary period gives both the natural parent and the adoptive parents equal opportunities to change their minds.

As a result of concern which agencies have felt about the probationary period, some Canadian adoption agencies are now placing for adoption only those children who are wards of the society. This practice has been questioned, however, on the grounds that it encourages the transfer of guardianship from the child's own parent to the agency for the sole purpose of arranging an adoption. This involves wardship proceedings and these are designed to cover cases of neglect. Thus a parent who is not in fact neglectful of her child but who wishes to have it placed for adoption must see it legally declared to be neglected before the adoption plan can proceed.

Because it has been recognized that sound work with parents surrendering children for adoption is fundamental to the success of such placements, most agencies are placing great stress upon the service given to an unmarried mother and the necessity of helping her work out her plans carefully and thoughtfully in advance of surrender. Where this is done, the agency and the adoptive parents alike can be as certain as it is possible to be that the mother's decision has been taken with full consideration of possible alternatives, as well as the implications of the action she is proposing to take.

A Committee on Adoption Practices of the Canadian Welfare Council has been giving major study to ways of improving adoption practices and they have been especially concerned with the development of a greater degree of uniformity in practice and philosophy among provinces. Motivated by the conviction that every child available for adoption should have a permanent home if one can be found, they have also given careful consideration to means of facilitating movement between those areas having a surplus of children available for adoption and places having a surplus of homes for children. Necessary safeguards in such interjurisdictional placements have been the subject of lengthy discussion.

Strenuous efforts have been made in agencies all across Canada during the last few years to find permanent adoption homes for "older" children who, for various reasons, were not available or suitable for adoption in infancy. This has involved educational plans to encourage prospective adoptive parents, most of whom would prefer to adopt an infant, to consider the adoption of older children. As this program succeeds, many children who have been in care for years will have the greater security of permanent homes of their own and will be removed from the pay care category in agency budgets.

Particular attention was focussed upon adoption problems by the Committee on Child Care and Adoption Services appointed in 1951 by the Minister of Public Welfare in Ontario. The Committee examined the factors blocking or retarding the placing for adoption of children who were wards of Children's Aid Societies, who were legally adoptable and who were otherwise considered adoptable by the Societies. It also examined the Societies' criteria of adoptability, and of suitable adopting parents.[1/] Among the Committee's major recommendations were, first, that the agencies place more emphasis on the needs of children in their adoption program. Second, that they examine the successful practice of others in the adoption placement of handicapped children and determine whether such practices

1/ Ibid., pp. 17-29.

might not be incorporated into their own programs. Third, that a skilled and experienced adoption worker be employed by the Child Welfare Branch of the Department of Public Welfare to bring to the attention of agencies suitable applicants for adoption where such applicants are not available locally, and assist the agencies in every way to effect the final placements.1/

Foster Home Care

In the foster care field, there continues to be a shortage of foster homes, although general increases in boarding home rates in most provinces have assisted in keeping this problem from becoming more serious. There is now greater recognition of the right of foster parents to reasonable remuneration for services rendered, and also recognition that the increased cost of living affects foster parents just as it does natural parents.

Various other means employed to elevate the status of the foster parent have improved the morale of present foster parents and made this type of service more attractive to potential foster parents in the community. Meetings of foster parents, organized by a number of agencies to provide them with an opportunity to discuss problems which they face, also serve as a means of recognizing the contribution made by them to the care and treatment of foster children.

In many agencies, major attention has been given over the past few years to skills in homefinding and in the supervision of foster children. This program has involved very careful study of all foster homes and acceptance only of those believed to be entirely suitable. There is an investment of considerable time by social workers in knowing thoroughly and understanding the foster children so that placements can be made with some degree of assurance that a specific home is right for a particular child. Frequent contact with the child and the foster parents during the placement is stressed. By such means, the probability of a secure placement is greatly increased.

Institutional Treatment

Recent years have seen the development in child welfare agencies of a more selective approach with respect to the use of various types of placement resources to meet the needs of individual children. There is gradually emerging a much more

1/ Ibid., p. 40.

discriminating use of various types of group-care facilities. This development has been made possible by revisions in program and policy which a number of Canadian institutions have undertaken in the past five years.

As a result of these revisions, some institutions are employing qualified staff in intake positions while others use the services of the local child welfare agency to carry out the work of intake. A variant of this method involves the institution's acceptance of children on the basis of a conference decision in which the social worker who knows the child, the institutional staff, a psychiatrist and possibly members of other professions participate.

In addition to improving their intake procedures, many institutions are providing improved service for children in their care through the use of more qualified staff, the employment or volunteer service of specialists of various kinds in certain aspects of their program, and the increased use of community facilities by the children themselves.

Another type of institutional development is that of the specialized institution for small groups of children whose behaviour is too disturbed for placement in foster homes or ordinary institutions. It is now possible in some communities, therefore, for a child welfare agency to make more adequate plans for the individual needs of children.

Treatment of Defective Children

Recognition should also be given to the improvements that have been made in services for defective children. In Ontario, the great shortage of institutional accommodation for this group has been substantially relieved by the construction of the new Ontario Hospital School at Smiths Falls. The Nova Scotia program has been expanded by additions to existing facilities and by the employment of social work staff to assist with problems of the youngsters in residence and also to help plan for the discharge of pupils to the community. In British Columbia, the publicly sponsored program for defective children at Woodlands Schools is also undergoing major revisions, largely designed to give greater individual treatment, but also to facilitate the movement of children who have been in the institution for a long time into employment, foster care, or their own homes.

Treatment of Retarded Children

The activity of parents of retarded children has increased markedly in the last few years. In most provinces

there are now associations of parents of retarded children, whose activities are, in many instances, designed to secure more and better facilities for these children. In other instances, parent associations have themselves set up educational classes for children who are being excluded from school where no suitable facilities exist. This latter activity particularly has resulted in some increase in facilities on the part of the educational authorities. For example, in Ontario, the provincial government is now subsidizing classes for retarded children that were initiated originally by their parents. Many of the parent associations are also seeking facilities which will enable their children to receive some education and training in accordance with their capacities without removing them from their own homes.

Unmarried Parent Services

During the period under review, considerable attention was given to the problem of providing adequate services for unmarried mothers. This concern is indicated, not only by new legislation, but by the establishment of two committees by the Canadian Welfare Council to study aspects of the problem. The first of these, a Committee on Residence Requirements Affecting Unmarried Mothers was established in 1949. The other, a Committee on Services to Unmarried Parents, was set up in 1952.

The first Committee was appointed to study practices dealing with unmarried mothers with particular reference to residence laws and to make recommendations which would facilitate uniformity of services in accordance with recognized standards of social work. To achieve such uniformity the Committee recommended that all regulations in regard to residence or domicile be abolished for unmarried mothers and their children, and that the province in which public assistance is required assume the financial responsibility. This would involve payment of hospitalization, of maintenance of the mother in the pre-natal and post-natal period and also the payment of maintenance for children in the temporary care of recognized child-caring organizations and during wardship when such action is necessary. This latter measure would remove a financial burden not only from municipalities but also from many private agencies which, at present, in order to maintain confidentiality and to assist the mother's rehabilitation, bear a large measure of the costs of maintenance.

In the event that all residence requirements could not be abolished, the Committee recommended, among other things, that each provincial government assume financial responsibility for mothers who are residents of that province. A mother without residence could be sent back to her own province if such a course were desirable or alternatively, reciprocal agreements could be worked out whereby the province of legal residence would reimburse the other for assistance granted.

PUBLICATIONS IN THE SOCIAL SECURITY
AND THE GENERAL SERIES

Research Division,
Department of National Health and Welfare

I. SOCIAL SECURITY SERIES

✓ Memorandum No. 1. Mothers' Allowances Legislation in Canada. May 1949. 69 pp.

* Memorandum No. 2. Old Age Income Security in New Zealand. March 1950. 41 pp.

* Memorandum No. 3. Old Age Income Security in Australia. March 1950. 31 pp.

✓ Memorandum No. 4. Old Age Income Security in Great Britain. March 1950. 84 pp.

✓ Memorandum No. 5. Old Age Income Security in the United States. March 1950. 76 pp.

✓ Memorandum No. 6. Old Age Income Security in Selected European Countries. (Denmark, France, Sweden, Switzerland). March 1950. 83 pp.

0 Memorandum No. 7. Social Security in Australia.

* Memorandum No. 8. Health Insurance in New Zealand. October 1950. 88 pp.

* Memorandum No. 9. Health Insurance in Denmark. (Revised) March 1952. 67 pp.

* Memorandum No. 10. Health Insurance in Sweden. January 1952. 76 pp.

* Memorandum No. 11. Health Insurance in Great Britain, 1911-48. March 1952. 163 pp.

0 Memorandum No. 12. Health Insurance in Norway. Est. 60 pp.

0 Memorandum No. 13. Health Insurance in the Netherlands. Est. 65 pp.

✓ Memorandum No. 14. Expenditures and Related Data for Government Health and Social Welfare Programs in Canada for Year Ended March 31, 1951. September 1952. 32 pp.

II. GENERAL SERIES

* Memorandum No. 1. Survey of Dentists in Canada. 2nd ed., January 1949, 45 pp.

* Memorandum No. 2. Survey of Physicians in Canada.
3rd ed., September 1948, 65 pp.
4th ed., September 1949, 61 pp.
5th ed., June 1951.

* Memorandum No. 3. Survey of Welfare Positions: Report April 1954. Est. 220 pp.

* Memorandum No. 4. Voluntary Medical Care Insurance: A Study of Non-Profit Plans in Canada, April 1954, 85 pp.

* Memorandum No. 5. A Study of the Functions and Activities of Head Nurses in a General Hospital. May 1954. Est. pp. 136.

* Memorandum No. 6. Mental Health Services in Canada. July 1954. Est. pp. 207.

* Memorandum No. 7. Changes and Developments in Child Welfare Services in Canada, 1949-1953. October 1954. Est. pp. 45.

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* Available on request. _/ Out of print. 0 In preparation.